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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

APR 12 2004

File: WAC 03 215 50378 Office: California Service Center Date:

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(P)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(ii)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner in this matter is a concert producer. The beneficiary is an entertainment group called the Hong Kong Canton Pop Artist Performers and is comprised of three singers, an artist manager, a tour manager, three artists' assistants and a five-piece band. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking P-2 nonimmigrant visa classification for eight beneficiaries under section 101(a)(15)(P)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(ii).

In a request for additional evidence, the director twice asked the petitioner to clarify the type of classification sought. The Form I-129 indicated that the petitioner sought H-1B nonimmigrant classification of the beneficiary. In reply to the request for additional evidence, counsel for the petitioner stated, "they should all be P-2 as part of the entertainment group."

The regulation at 8 C.F.R. 214.2(p)(1)(ii)(B) states that:

> A P-2 classification applies to an alien who is coming temporarily to the United States to perform as an artist or entertainer, individually or as part of a group, or to perform as an integral part of the performance of each group, and who seeks to perform under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or organizations in one or more foreign states, and which provides for the temporary exchange of artists and entertainers or groups of artists and entertainers.

In a request for additional evidence, the director asked the petitioner to submit a consultation with an appropriate labor organization. The petitioner submitted a favorable consultation from the American Federation of Television and Radio Artists that states that the beneficiary qualifies for O-1 nonimmigrant classification.

The director denied the petition, finding that the petitioner failed to submit an appropriate consultation.

On appeal, the petitioner indicates that within one day it would submit a consultation from the Screen Actors Guild. More than six months have lapsed since the date of the appeal and nothing more has been submitted for the record.

The petitioner failed to address specifically the grounds for denial set forth in the decision of the director except to say that it would submit a consultation.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.